IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11888 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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AJITBHAI SAMANTBHAI ADODIYA

Versus

STATE OF GUJARAT

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Appearance:

MR HR PRAJAPATI for Petitioner

MR HH PATEL for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 15/02/2001

ORAL JUDGEMENT

#. Challenge has been made by the petitioner to the order dated 21-10-2000 under which he was detained as a bootlegger.

#. Challenging the order of detention, learned counsel

for the petitioner raised manifold contentions but as this petition deserves to be allowed only on one ground, it is not necessary to refer, discuss and decide on all other contentions.

#. It is contended that the petitioner made representation on 9-11-2000 to the State Government by registered post A.D.. In the said representation, the petitioner made demand for copies of the documents mentioned in para(j) of the special civil application for the purpose of making effective representation but the copies of those documents were not given to the petitioner and as such the right guaranteed to the petitioner to make effective representation under Article 22 (5) of the Constitution has been violated.

#. Learned counsel for the respondents supported the order of the detaining authority.

#. Heard the learned counsel for the parties. Reply to the special civil application has not been filed by any of the respondents. and as such the averments made in para-(j) of the special civil application stand uncontroverted. It is a case where the petitioner has not been furnished with the copies of the documents and statements of witnesses recorded under section 161 of Cr.P.C. in the criminal complaint which have been made base for detaining him. The F.S.L. report has also not been given to him in one of the cases. It is a clear case where the petitioner has been denied of his right of making effective representation against the detention order as conferred upon him under Article 22(5) of the Constitution of India.

#. In the result, this petition succeeds and the same is allowed. The order of detention of the petitioner dated 21-10-2000 is quashed and set aside. The petitioner Ajitbhai Samantbhai Adodiya, detenu, at present in Porbandar Jail be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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